IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 2767 of 2004

Between:

Sasubilli Satyanarayana, S/o.late Appala Naidu, Secretary, L.kota, PACS, L.kota Village, Vizianagaram Dist

..... PETITIONER

AND

1 The District Cooperative Officer, vizianagaram District Vizianagaram
2 The Deputy Registrar of Coop.Societies, Vizinagaram.
3 L.Kota Primary Agricultural Coop.Society L.Kota Village, Vizianagaram District, rep.by its Chair Person/Person-in-charge.

4. The Divisional Co-operative Officer, Vizianagaram

(R-4 is impleaded as per Court Order, dated 16.05.2004 in W.P.M.P.No.19390 of 2004

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the notice dated 20.07.2004 issued by the 4th respondent as highly illegal, arbitrary, unjust, void and consequently set aside the same.

Counsel for the Petitioner:MR.D.V.NAGARJUNA BABU

Counsel for the Respondent Nos.1 and 2: GP FOR COOPERATION

Counsel for the respondent No.3: Mr.P.Srinivasulu.

The Court made the following :

O R D E R:

The facts of the case in brief are that the petitioner was initially appointed as Secretary in the year 1976 in the 3rd respondent L.Kota Primary Agricultural Cooperative Society, Vizianagaram District. There after, the 3rd respondent lodged a complaint against the petitioner for committing several irregularities in the matter of disbursement of loans to some of the members of the Society. There after, the matter went before the Special Court in C.C.No.34 of 1998, wherein the petitioner was convicted for the offence under Section 409 I.P.C., read with Section 114 of I.P.C. and Section 79(f) of the Andhra Pradesh Cooperative Societies Act, 1964 and sentenced to undergo rigorous imprisonment for a period of six months and also to pay a fine of Rs.2,000/-. Aggrieved by the same, the petitioner preferred Criminal Appeal No.1647 of 1999 before this Court, seeking stay of operation of the order of the Special Court. Pending appeal, this Court granted bail to the petitioner. In spite of the same, the 3rd respondent Society issued notice, dated 03.01.2004 to the

petitioner requiring him to show cause within 30 days as to why he shall not be dismissed from the service of the Society on the ground that the Special Court convicted the petitioner. Assailing the said notice, this writ petition is filed.

As long as the conviction is not stayed or set aside, the conviction continues to be in force. As the petitioner was convicted by the Special Court, I do not see any illegality in the notice issued by the 3rd respondent. However, in view of the fact that this Court in W.P.NO.3171 of 2003 and batch, dated 30.08.2004 held that the Primary Agricultural Cooperative Society Limited is not a “State” within the meaning of Article 12 of the Constitution of India, the Societies are not amenable to writ jurisdiction under Article 226 of the Constitution of India, this writ petition filed by the petitioner against a Society is not maintainable.

The writ petition is, therefore, dismissed. However, after the disposal of the criminal appeal No.1647 of 1999 by this Court, depending upon the result of the criminal appeal, liberty is given to the petitioner to make a representation before the 3rd respondent Society seeking his reinstatement. No costs.

16.09.2004

tjs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The district Cooperative Officer, vizianagaram District Vizianagaram
2. The Deputy Registrar, Co-operative Societies, Vizianagaram

3. **The Divisional Co-operative Officer, Vizianagaram**

4. 2CCs to the G.P.for Co-operation, High Court of A.P., Hyderabad. (OUT)

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